

MEMORANDUM

Alternate
Agenda Item No. 10(A)(14)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: August 23, 2012

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution calling a special election for the purpose of submitting to the electors the question of whether to amend the Home Rule Charter to prohibit Commissioner relationships with firms doing business with the County

The alternate differs from the original in that it:

- Extends the forfeiture of office provision from just the County Commission to County and municipal commissioners, mayors, and the property appraiser.
- Requires the Board to create an ordinance to further define the prohibited relationships which would lead to forfeiture of office.
- Extends the prohibition on contracting with entities in which immediate family members of County and municipal commissioners, mayors and the property appraiser have a financial relationship.
- Requires the Board by ordinance to further define the prohibited contracting relationships for immediate family members.
- Allows contracts entered into in violation of immediate family prohibition to be voidable instead of immediately void

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Lynda Bell.



R. A. Cuevas, Jr.
County Attorney

RAC/smm



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

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Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Alternate
Agenda Item No. 10(A)(14)
8-23-12

RESOLUTION NO. _____

RESOLUTION CALLING A COUNTYWIDE SPECIAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA, TO BE HELD IN CONJUNCTION WITH A GENERAL ELECTION ON TUESDAY, NOVEMBER 6, 2012, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF MIAMI-DADE COUNTY THE QUESTION OF WHETHER TO AMEND THE HOME RULE CHARTER TO PROHIBIT RELATIONSHIPS WITH FIRMS DOING BUSINESS WITH THE COUNTY

WHEREAS, The Board of County Commissioners pursuant to Section 9.07 of the Miami-Dade County Home Rule Charter desires to place the attached Charter amendment before the electors of Miami-Dade County on the November 6, 2012 General Election ballot,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. A countywide special election is hereby called and shall be held in Miami-Dade County, Florida in conjunction with a General Election on Tuesday, November 6, 2012, for the purpose of submitting to the qualified electors of Miami-Dade County the proposal for amendment to the Home Rule Charter in the form attached hereto and made a part hereof.

Section 2. Notice of such election shall be published in accordance with Section 100.342, Florida Statutes.

Section 3. The result of such election shall be determined by a majority of the qualified electors of Miami-Dade County voting upon the proposal. The polls at such election shall be open from 7:00 a.m. until 7:00 p.m. on the day of such election. All qualified electors of Miami-Dade County, Florida shall be entitled to vote at said election. The County registration books shall remain open at the Office of the Miami-Dade County Supervisor of Elections until twenty-nine (29) days prior to the date of such election, at which time the registration books will

close in accordance with the provisions of general election laws. The question shall appear on the ballot in substantially the following form:

CHARTER AMENDMENT PROHIBITING >>CERTAIN
MUNICIPAL AND COUNTY
OFFICIAL'S<<[[COMMISSIONER]]¹ RELATIONSHIPS WITH
FIRMS DOING BUSINESS WITH [[THE]] COUNTY

SHALL THE CHARTER BE AMENDED TO PROVIDE THAT,
COMMENCING NOVEMBER 16, 2016>> AND AS DEFINED
BY ORDINANCE <<:

- ANY >>COUNTY OR MUNICIPAL MAYOR, <<
COMMISSIONER >>OR PROPERTY APPRAISER<<
FOUND TO HAVE [[AN]] >>A SIGNIFICANT<<
OWNERSHIP INTEREST IN, OR [[RECEIVE
ANYTHING OF VALUE FROM EMPLOYMENT BY
OR CONSULTING]] >>IS EMPLOYED BY OR
CONSULTS<< FOR ANY FIRM[[S]] DOING BUSINESS
WITH [[THE COUNTY]]>>SUCH GOVERNMENT<<
SHALL FORFEIT OFFICE;
- NO FIRM [[WHOSE OWNER, DIRECTOR, BOARD
MEMBER, OR CONSULTANT OR SUBCONTRACTOR
IS]] >>HAVING CERTAIN RELATIONSHIPS WITH<<
[[AN IMMEDIATE FAMILY MEMBER OF]] A
>>COUNTY OR MUNICIPAL<< COMMISSIONER>>,2
MAYOR OR PROPERTY APPRAISER'S IMMEDIATE
FAMILY<< MAY [[BID OR BE AWARDED]] >>SEEK
OR _____ OBTAIN<< [[COUNTY]]>>SUCH
GOVERNMENT'S<< CONTRACTS?

YES ☐

NO ☐

¹ The differences between the alternate and the original item are indicated as follows: words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or »double arrowed« constitute the amendment proposed.

Section 4. The form of the ballot shall be in accordance with the requirements of general election laws.

Section 5. Early voting shall be conducted in accordance with the requirements of general election laws.

Section 6. Absentee paper ballots may be used by qualified electors of Miami-Dade County for voting on this question. The form of such absentee ballot shall be in accordance with the requirements prescribed by general election laws.

Section 7. A sample ballot showing the manner in which the question or proposal aforesaid will appear at this election shall be published and provided in accordance with the applicable provisions of general election laws.

Section 8. This special election on the proposal aforesaid shall be held and conducted in accordance with applicable provisions of the general laws relating to elections and the provisions of the Miami-Dade County Home Rule Charter. The County Mayor or his or her designee, the Finance Director, and the Clerk of the County Commission are hereby authorized and directed to take all appropriate actions necessary to carry into effect and accomplish the provisions of this resolution. This election shall be a nonpartisan election. Election officials in connection with this election shall be appointed in accordance with the provisions of general election laws.

Section 9. This election shall be canvassed by the County Canvassing Board, in accordance with the provisions of Section 3.07 of the Home Rule Charter.

The Prime Sponsor of the foregoing resolution is Commissioner Lynda Bell. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 23rd day of August, 2012. This resolution shall become effective upon the earlier of (1) ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Oren Rosenthal

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-1²

BOARD OF COUNTY COMMISSIONERS

* * *

Section 1.05. FORFEITURE OF OFFICE.

A. Any member of the Board of County Commissioners who ceases to be a qualified voter of the county or removes himself from the county or the district from which he was elected, or who fails to attend meetings without good cause for a period of six months, shall immediately forfeit his office. Any Commissioner who ceases to reside in the district which he represents shall also immediately forfeit his office.

~~>> B. >>Notwithstanding anything in this Charter or any municipal charter to the contrary, c<<[[C]]ommencing November 22, 2016, no County >>Mayor or<< Commissioner >>or the County Property Appraiser ("Elected Official")<< may have>>, as set forth and defined in an ordinance adopted by the Board of County Commissioners.<< a[[n]] >>significant<< ownership interest in, or receive money, gifts, favors, financial benefits or anything of value as a result of being employed by or consulting for, any firm who transacts business (i.e., purchasing or selling goods or services) with the County or any department, office, agency or instrumentality of the County. If after reasonable notice and an opportunity to be heard, the Commission on Ethics determines that a>>n Elected Official<< [[County Commissioner]] has violated this Section, such >>Elected Official<< [[County Commissioner]] shall immediately forfeit his or her office upon the filing of such determination with the Clerk of the Board. >>As it relates to any contracting with a municipality, the foregoing provision shall apply to any municipal Mayor, Commissioner or member of the municipal governing body who shall also be considered an "Elected Official" for purposes of this Section.<< Any >>Elected Official<< [[County Commissioner]] who has forfeited his or her office pursuant to this section may file a cause of action in circuit court for reinstatement. [[The Board shall adopt an ordinance consistent with this Section setting]] >>The ordinance adopted by the Board in accordance with this Section~~

²Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

shall also set forth the procedures for enforcement of this Section.

~~[[B.]]~~>>C.<< Any elected or appointed county official who holds any other elective office, whether federal, state or municipal, shall forfeit his county position, provided that the provisions of this subsection shall not apply to any officials presently holding such other office during the remainder of the present terms.

~~[[C.]]~~>>D.<< Any appointed official or employee of Dade County who qualifies as a candidate for election to any federal, state or municipal office shall immediately take a leave of absence from his or her county position until the date of the election and shall, if elected, immediately forfeit his or her county position. If the candidate is not elected, he or she shall immediately be reinstated to his or her former position.

* * *

ARTICLE 5

ADMINISTRATIVE ORGANIZATION AND PROCEDURE

* * *

SECTION 5.03. - FINANCIAL ADMINISTRATION.

A. The department of finance shall be headed by a finance director appointed by the Mayor and the Clerk of the Circuit and County Courts. The finance director shall have charge of the financial affairs of the county.

B. Between June 1 and July 15, the County Mayor should prepare a proposed budget containing a complete financial plan, including capital and operating budgets, for the ensuing fiscal year. The budget prepared and recommended by the Mayor, shall be presented by the Mayor or his or her designee to the Commission on or before the Board adopts tentative millage rates for the ensuing fiscal year. A summary of the budget shall be published and the Board shall hold hearings on and adopt a budget on or before the dates required by law.

C. No money shall be drawn from the county treasury nor shall any obligation for the expenditure of money be incurred except pursuant to appropriation and except that the Board may establish working capital, revolving, pension, or trust funds and may provide that expenditures from such funds can be made without specific appropriation. The Board, by ordinance, may

transfer any unencumbered appropriation balance, or any portion thereof, from one department, fund, or agency to another, subject to the provisions of ordinance. Any portion of the earnings or balance of the several funds, other than sinking funds for obligations not yet retired, may be transferred to the general funds of the county by the Board.

D. Contracts for public improvements and purchases of supplies, materials, and services other than professional shall be made whenever practicable on the basis of specifications and competitive bids. Formal sealed bids shall be secured for all such contracts and purchases when the transaction involves more than the minimum amount established by the Board of County Commissioners by ordinance. The transaction shall be evidenced by written contract submitted and approved by the Board. The Board, upon written recommendation of the Mayor, may by resolution adopted by two-thirds vote of the members present waive competitive bidding when it finds this to be in the best interest of the county. >>Commencing November 22, 2016, no >>private<< entity may bid, propose or be awarded a County contract if>>, as set forth an defined in an ordinance adopted by the Board,<< a member of the County Commission>>, Mayor, or Property Appraiser<<'s immediate family (i.e. spouse, domestic partner, parents, stepparents, children and stepchildren, spouses of a child or stepchild) is an owner, director, board member, or consultant of the entity or a subcontractor of the entity or has any financial relationship with the entity or a subcontractor of the entity. ~~[[All County contracts shall provide for, and shall be, immediately terminated in the event that a relationship in violation of this Section is discovered after the execution of the contract.]]~~ >>Any contract or transaction entered into in violation of this Section shall be voidable. As it relates to any contracting with a municipality, the foregoing provision shall apply to the immediate family of any municipal Mayor, Commissioner or member of the municipal governing body.<<